

REMARKS

Claims 1-13 remain pending in this application. Claims 2, 4, 5, and 10-13 have been amended to improve their clarity and form in light of the Restriction requirement. No new matter has been introduced.

Claims 1-13 were subject to the following restriction:

- For claim 1: Species 1 (claim 2);
Species 2 (claim 3);
Species 3 (claim 4);
- For claim 5: Species 1 (claim 6);
Species 2 (claim 7);
Species 3 (claim 8)

Applicants traverse this restriction because (1) this is an improper Species requirement and (2) it is incomplete to the extent that the examiner is requiring applicant to elect only a single claim under each of the generic claims. Indeed, applicants take an Official Notice that it is improper to require applicants to select between claims in a Species requirement. Note also that the examiner does not address claims 9-13.

Requiring an election of species based only on the claims is facially improper as the claims themselves are never species. See MPEP § 806.04(e). If the examiner meant to restrict between the illustrated embodiments, the examiner should properly issue species restriction based on the illustrated embodiments. Here, three embodiments are illustrated, namely the embodiments of Fig. 1A and the embodiment of Figs. 2A-2C, with respect to the speaker configuration. Fig. 1A illustrates two embodiments differing only in the center channel configuration (C system channel 1 that uses all the speakers versus C system channel 2 that only uses the central most speakers), while Figs. 2A-2C illustrate the third embodiment.

To the extent that the examiner meant to restrict between these embodiments, applicants elect the third embodiment of Figs. 2A-2C. Note that Fig. 2A illustrates the configuration for the center channel, Fig. 2B illustrates the configuration for the left and right channels, and Fig. 2C illustrates the overlap of Figs. 2A and 2B. Claims 1-13 are readable on the elected embodiment.

As set forth in MPEP § 806.04(f), restriction based on species can be applied only if claims identified by the examiner are mutually exclusive. Different species are mutually exclusive if one claim recites a limitation that is found in the first species but not in a second, while a second claim recites a limitation found only in the second species and not in the first

species. Here, claims 1-13 are not mutually exclusive, because all of the features set forth in claims 1-13 are found in the embodiment of Figs. 2A-2C.

Moreover, claims 1-3 are GENERIC, while claim 4 reads on the embodiment of Figs. 2A-2C. Specifically, claim 2 is directed to left and right channel configuration that reads on both embodiments of Figs. 1A and 2A-2C. Claim 3 is directed to the center channel configuration that also reads on both embodiments of Figs. 1A and 2A-2C. Since claim 2 is reciting the left and right channel configuration and claim 3 is reciting the center channel configuration, these features are not mutually exclusive since they can be combined together, as evidenced by claims 12 and 13. Since the features set forth in claims 2-4 are usable together (as they are directed to the same embodiment) they are not mutually exclusive. Thus, they cannot be categorized as species. The examiner has improperly categorizing different aspects of the same embodiment as species. Similarly, claims 10-13 as presently proposed now clearly read on the embodiment of Figs. 2A-2C.

Claims 5-9 are directed to the circuits (Figs. 1B and 3) of the embodiments of Figs. 1A and 2A-2C. Since Fig. 1B is directly tied to the embodiment of Fig. 1A and Fig. 3 is directly tied to the embodiment of 2A-2C, by electing the embodiment of Fig. 2A-2C, applicants have elected the embodiment of Fig. 3 with respect to the circuit.

Claim 5 as presently amended (changing "increase" to --decrease--) is generic. Indeed, in all three embodiments (see Fig. 1A and 2A-C), the passing frequency band of **the left and right channel** reproduction regions decreases from the speakers positioned at opposite end portions of the speaker array to the speaker or speakers positioned at a central portion of the speaker array. Referring to Fig. 2A, the passing frequency band of **the center channel** reproduction region increases from the speakers positioned at the peripheral region of the speaker array to the speaker or speakers positioned at a central region of the speaker array.

Based on the telephonic conference with the examiner, the examiner appeared to have indicated that the examiner was going restrict the claims as subcombinations usable together instead of species. Should the examiner withdraw the present restriction and issue a new restriction, namely between Group I directed to claims 1-4 and 10-13 and Group II directed to claims 5-9, applicants intend to elect Group I directed to claims 1-4 and 10-13. If so, the examiner is requested to contact the undersigned so that that a formal telephonic election can be made.

In sum, applicants elect the embodiment of Figs. 2A-2C and 3. All pending claims 1-13 read on the elected embodiment.

Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicants urge the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

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DATE

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